

D  
D  
*mf*

substantially an entire periphery of  
a border seal sealing the first layer and the second layer to form a  
border, the border seal including [smooth] curvilinear ripples having ripple cycle  
lengths substantially shorter than the length of said border.

23. (amended) The heat exchange panel of claim 22, further including at least one fence interiorly of said border, which fence is sealed to the first layer and the second layer[, said fence including smooth] and includes curvilinear ripples having ripple cycle lengths substantially shorter than the length of the fence.

---

#### REMARKS

The description is amended by this paper, primarily to provide support for language now used in the claims. One of the claims is canceled and 15 rewritten to claim the invention more particularly.

Turning to the action in the previous CPA, claims 1, 3-6, 8-10, and 12-24 stand rejected under 35 USC ¶ 103(a) as being unpatentable over applicant's prior art figure 2 in view of the Haugeneder reference. In applicant's view, one of the major issues is whether or not the Haugeneder patent is an appropriate reference under 35 USC 103(a). Enclosed is a declaration from Mr. Kast, a technical consultant having significant knowledge as to what would be, and what would not be, obvious to a person having ordinary skill in the art to which the subject matter of this application pertains, in view of the admitted prior art and the teachings of the Haugeneder patent. Mr. Kast's declaration is being offered as expert opinion. As brought out by Mr. Kast, he analyzed the prosecution history as well as the teachings of the Haugeneder patent reference. His opinion is that it would not be obvious. He explains the basis of his opinion by bringing out that one of ordinary skills in the field would not turn to the Haugeneder patent for a solution to the problem of providing a greater

area of thermal contact in a compliant heat exchanger while still assuring the panel retains its ability to conform to a complex and dynamically changing three-dimensional form (a complex shape). As brought out by Mr. Kast, the Haugeneder patent discloses a rigid panel having two rigid plates separated by spacing elements. It is clear from the sectional view of Haugeneder in which the reference numerals 20, 21, and 22 represent posts and 24-25 and 25 represent the flow space between such posts that Haugeneder was not concerned about the problem of his spacing elements interfering with the size of the area of thermal contact, particularly without inhibiting the ability of the panel to conform to complex and dynamically changing three-dimensional forms.

How could he be. His panel is rigid.

It is believed clear that applicant is entitled to patent protection as defined by the claims, and it is respectfully requested that it be granted at this stage of the prosecution.

Respectfully submitted,

  
C. Michael Zimmerman  
Attorney for Applicant  
Registration No. 20,451

P.O. Box 730393  
San Jose, CA 95173  
Tel: (408) 532-9065  
Fax: (408) 532-6055